

**STATE OF MISSOURI
MISSOURI BOARD OF PHARMACY**

IN RE:)	
)	
DEVOS LTD.)	
d/b/a GUARANTEED RETURNS)	
License No. 900731)	Complaint No. 2019-003118
100 Colin Drive)	
Holbrook, NY 11741)	

**SETTLEMENT AGREEMENT BETWEEN STATE BOARD OF
PHARMACY AND DEVOS LTD. d/b/a GUARANTEED RETURNS**

COME NOW Devos Ltd. d/b/a Guaranteed Returns ("Respondent" or "Guaranteed Returns") and the Missouri Board of Pharmacy ("Board" or "Petitioner") and enter into this Settlement Agreement for the purpose of resolving the question of whether Respondent's permit to operate as a drug distributor will be subject to discipline.

Pursuant to the terms of Section 536.060, RSMo, the parties hereto waive the right to a disciplinary hearing before the Board under Section 338.065, RSMo, and stipulate and agree that a final disposition of this matter may be effectuated as described below.

Respondent acknowledges that it understands the various rights and privileges afforded it by law, including the right to a hearing of the charges against it; the right to appear and be represented by legal counsel; the right to have all charges against it proved upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against it; the right to a decision upon the record by the Board concerning the charges pending against it and any resulting discipline, at which time it may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against its permit. Being aware of these rights provided it by operation of law, Respondent

knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to it.

Respondent acknowledges that it has received a copy of the Felony Complaint filed with the Board.

For purposes of settling this dispute, Respondent stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the Board that Respondent's permit to operate as a drug distributor, numbered 900731, is subject to disciplinary action by the Board in accordance with the provisions of Chapters 338, 536, and 621, RSMo.

JOINT STIPULATION OF FACTS

1. The Missouri Board of Pharmacy (the "Board") is an agency of the State of Missouri created and established pursuant to §338.110, RSMo¹, for the purpose of executing and enforcing the provisions of Chapter 338, RSMo.

2. Respondent Devos Ltd. d/b/a Guaranteed Returns ("Respondent"), 100 Colin Drive, Holbrook New York 11741, a foreign corporation existing under the laws of the State of New York, is permitted by the Board as a drug distributor under permit number 900731. Respondent's permit was at all times relevant herein current and active.

3. On or around July 16, 2019, a Judgment was entered against Respondent wherein it was found guilty of committing a multitude of federal offenses in the United States District Court, Eastern District of Pennsylvania, in Case. No. DPAE2:14CR-00574-001 in connection with a scheme to steal money from clients who relied on Respondent to return unused pharmaceutical products.

¹ All statutory references are to the Revised Statutes of Missouri 2016, as amended, unless otherwise stated.

4. Respondent was found guilty on 23 counts of the Class C felony of wire fraud under 18 U.S.C. § 1343, an essential element of which is fraud and/or, dishonesty, or involves moral turpitude, to-wit:

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

5. Respondent was convicted on 28 counts of the Class C felony of mail fraud and conspiracy to commit mail fraud under 18 U.S.C. §§ 1341 and 1349, an essential element of which is fraud and/or, dishonesty, or involves moral turpitude, to-wit:

18 U.S.C. § 1341 states:

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than

20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

18 U.S.C. § 1349 states:

Any person who attempts or conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

6. Respondent was convicted on 1 count of the felony of theft of government property and aiding and abetting under 18 U.S.C. § 641 and 2, an essential element of which is fraud and/or, dishonesty, or involves moral turpitude, to-wit:

18 U.S.C. § 641 states:

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted--

Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

The word "value" means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

18 U.S.C. § 2 states:

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

7. Respondent was convicted on 1 count of the Class C felony of conspiracy to launder money under 18 U.S.C. § 1956(a) and (h), an essential element of which is fraud and/or, dishonesty, or involves moral turpitude, to-wit:

(a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—

(A)(i) with the intent to promote the carrying on of specified unlawful activity; or

(ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or

(B) knowing that the transaction is designed in whole or in part--

(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than \$500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both. For purposes of this paragraph, a financial transaction shall be considered to be one involving the proceeds of specified unlawful activity if it is part of a set of parallel or dependent transactions, any one of which involves the proceeds of specified unlawful activity, and all of which are part of a single plan or arrangement.

(h) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

8. Respondent was convicted on 1 count of the Class D felony of conspiracy to obstruct justice under 18 U.S.C. § 371, an essential element of which is fraud and/or, dishonesty, or involves moral turpitude, to-wit:

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

9. Respondent was convicted on 3 counts of the Class C felony of obstruction of justice and aiding and abetting under 18 U.S.C. §§ 1512(c)(1) and 2, an essential element of which is fraud and/or, dishonesty, or involves moral turpitude, to-wit:

18 U.S.C. § 1512(c)(1) states:

(c) Whoever corruptly--

(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

shall be fined under this title or imprisoned not more than 20 years, or both.

18 U.S.C. § 2 states:

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

10. Respondent was convicted on 3 counts of the felony of obstruction of justice and aiding and abetting under 18 U.S.C. §§ 1519 and 2, an essential element of which is fraud and/or, dishonesty, or involves moral turpitude, to-wit:

18 U.S.C. § 1519 states:

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation

to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

18 U.S.C. § 2 states:

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

11. Respondent was convicted on 3 counts of the felony of obstruction of justice and aiding and abetting under 18 U.S.C. § 1001(a)(1) and (2), an essential element of which is fraud and/or, dishonesty, or involves moral turpitude, to-wit

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully--

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

12. Respondent was sentenced to five (5) years' probation and ordered to pay fines of \$15,000,000.00; restitution of over \$95,000,000.00; and a special assessment of \$25,600.00.

13. According to Respondent, individuals formerly in control of Respondent no longer hold positions of leadership or authority with Respondent and the sentence imposed on Respondent by the federal district court ensured that those individuals could no longer profit

from Respondent's business activities. Respondent currently operates under different leadership and has been allowed to retain active licensure in its resident state.

Disciplinary Action Warranted

14. The Board has jurisdiction and authority to hold an immediate disciplinary hearing and issue discipline based upon Respondent's actions and being found guilty of the federal felonies referenced above in the United States District Court, Eastern District of Pennsylvania, under §338.065.1, RSMo, to wit:

1. At such time as the final trial proceedings are concluded whereby a licensee or registrant, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license, has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony prosecution pursuant to the laws of the state of Missouri, the laws of any other state, territory, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of a licensee, permittee, or registrant pursuant to this chapter or any felony offense, an essential element of which is fraud, dishonesty or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, the board of pharmacy may hold a disciplinary hearing to singly or in combination censure or place the licensee, permittee, or registrant named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, registration or permit.

JOINT AGREED DISCIPLINARY ORDER

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of §§338.065, 536.060, and 621.045, RSMo.

1. Respondent's drug distributor permit numbered 900731 shall be placed on **PROBATION** for a period of **FIVE (5) YEARS** ("disciplinary period"). The period of probation shall constitute the disciplinary period. The terms of discipline shall be as follows:

- A. Respondent shall pay all required fees for licensing to the Board and shall renew its drug distributor license prior to October 31 of each licensing year.
- B. Respondent shall comply with all provisions of Chapter 338, Chapter 195, and all applicable federal and state drug laws, rules and regulations and with all federal and state criminal laws. "State" here includes the State of Missouri and all other states and territories of the United States.
- C. Respondent shall comply with all requirements of its federal probation.
- D. If, after disciplinary sanctions have been imposed, the Respondent fails to keep its drug distributor license current, the period of unlicensed status shall not be deemed or taken as any part of the time of discipline so imposed.
- E. Respondent shall report to the Board, on a preprinted form supplied by the Board office, once every six (6) months (due by each January 1 and July 1), beginning with whichever date occurs first after this Agreement becomes effective, stating truthfully whether or not it has complied with all terms and conditions of its disciplinary order.
- F. Respondent shall make a representative of the drug distributor available for personal interviews to be conducted by a member of the Board or the Board of Pharmacy staff. Said meetings will be at the Board's discretion and may occur periodically during the disciplinary period. Respondent will be notified and given sufficient time to arrange these meetings. These interviews may be conducted telephonically if approved by the Board.
- G. Respondent's failure to comply with any condition of discipline set forth herein constitutes a violation of this disciplinary Agreement.
- H. The parties to this Agreement understand that the Board of Pharmacy will maintain this Agreement as an open record of the Board as provided in Chapters 324, 338, 610, RSMo.

2. Upon the expiration of said discipline, Respondent's license as a drug distributor in Missouri shall be fully restored if all other requirements of law have been satisfied provided, however, that in the event the Board determines that the Respondent has violated any term or condition of this Settlement Agreement, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline the Respondent.

3. No order shall be entered by the Board pursuant to the preceding paragraph of this Settlement Agreement without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

4. If the Board determines that Respondent has violated a term or condition of this Settlement Agreement, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Settlement Agreement in its determination of appropriate legal actions concerning that violation. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the Board may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held to determine whether a violation occurred and, if so, it may impose further discipline. The Board retains jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

5. The terms of this Settlement Agreement are contractual, legally enforceable, binding, and not merely recitals. Except as otherwise contained herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

6. Respondent hereby waives and releases the Board, its members and any of its employees, agents, or attorneys, including any former board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs, and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to Section 536.087, RSMo, or any claim arising under 42 U.S.C.

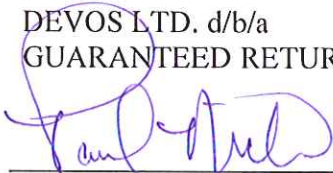
§1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this Settlement Agreement in that it survives in perpetuity even in the event that any court of law deems this Settlement Agreement or any portion thereof void or unenforceable.

The Settlement Agreement goes into effect fifteen (15) days after the document is signed by the Board's Executive Director.

RESPONDENT

DEVOS LTD. d/b/a
GUARANTEED RETURNS

By:



As Authorized Agent for
DEVOS LTD. D/B/A
GUARANTEED RETURNS

Printed:

Paul Nick

Date:

3/2/2020

PETITIONER

MISSOURI BOARD OF
PHARMACY

By:



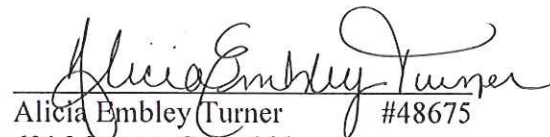
Kimberly Grinston
Executive Director

Date:

3/18/20

NEWMAN, COMLEY & RUTH P.C.

By:



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